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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,808	07/15/2003	Jon Godston	CS20558RL	7666

20280 7590 11/28/2005

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

EXAMINER

NGUYEN, SIMON

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,808	GODSTON ET AL.	
	Examiner	Art Unit	
	SIMON D. NGUYEN	2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Janninck et al. (6,768,899).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Janninck discloses a communication device having a rotational mechanism for rotating first and second housing elements, wherein the first and second housing elements having a common axis of rotation, which is perpendicular to a front surface, wherein the first housing element having a rounded surface extended around the axis of rotation (figs.1-2), the mechanism comprising: a wheel with the first and second housing element rotated around it at a center point; a tension device, a linkage for contacting and support the rotation (figs.3-4, column 6 lines 25-67).

Regarding claims 15 and 22, these claims are rejected for the same reason as set forth in claims 1, wherein the first and second housing elements rotate along the axis clockwise or counterclockwise to open or close the communication device (figs. 1-2).

Regarding claims 2-12, Janninck further discloses the mechanism comprising: a torsion spring, slider plate, a V shape, a crankshaft including a pin, a flat gear including teeth (figs. 3-4).

Regarding claims 12-14, Janninck further discloses the communication device is a hand-held, electronic, a wireless communication device (figs.1-2).

Regarding claims 16-21, 23-39, these claims are either rejected for the same reason as set forth in claims 2-14, or are discloses in figs. 2-4.

2. Claims 22 –26 are rejected under 35 U.S.C. 102(e) as being anticipated by SanGiovanni (US 2002/0102946).

Regarding claims 22-26, SanGiovanni discloses a wireless communication device (figs. 1, 4), comprising: first and second housing elements, wherein the first and second housing element perpendicularly rotates around an axis; a keypad (figs.1, 4). It should be noted that a speaker and a mic are inherently in a communication device.

3. Claims 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Bequir (Des. 427,172).

Regarding claims 22-26, Bequir discloses a wireless communication device (figs. 8-9), comprising: first and second housing elements, wherein the first and second housing element perpendicularly rotates around an axis; a keypad; a speaker; and a microphone (figs.8-9).

4. Claims 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hong (Des. 424,558).

Regarding claims 22-26, Hong discloses a wireless communication device (figs. 1-14), comprising: first and second housing elements, wherein the first and second housing element perpendicularly rotates around an axis; a keypad. It should be noted that a speaker and a microphone are inherently in a communication device.

5. Claims 2-4, 12-16, 19, 22-26, and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (5,485,517).

Regarding claims 22-26, Gray discloses a wireless communication device (figs. 1-13), comprising: first and second housing elements, wherein the first and second housing element rotates around an axis, which is almost perpendicular to a surface of the communication device; a keypad; a speaker, and a microphone (figs.1-13).

Regarding claims 2-4, 28-30, Gray further discloses a mechanism for rotating the first and second housing element having features as claimed in claims 2-4 and 28-30 (column 7 lines 56 to column 10 line 55).

Regarding claims 12-14, Gray further discloses the communication device is a hand-held, a wireless communication device (figs.1).

Regarding claims 15-16, 19, Gray further discloses the first and second housing element rotates around the axis, either a clockwise or a counterclockwise (figs. 9-11).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17, 18, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (5,485,517).

Regarding claim 17, 18, 20-21, Gray does not specifically disclose a force to be applied on the wheel for rotating the first and second housing element to open and close the communication device.

It should be noted that in order to open and close the communication device of Gray, a force is a must in order to open and close the device, which is known to those skilled in the art.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-

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7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

600 Dulany, Alexandria, VA 22314

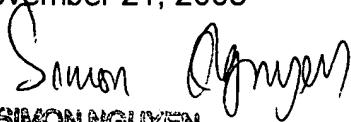
Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Hand-delivered response should be brought to Customer Service Window located at the Randolph Building, 401 Dulany, Alexandria, VA, 22314.

Simon Nguyen

November 21, 2005


SIMON NGUYEN
PRIMARY EXAMINER